

STATE OF MICHIGAN
COURT OF APPEALS

PATRICIA BROWN,

Plaintiff-Appellant,

v

NORTHWOODS ANIMAL SHELTER,

Defendant-Appellee.

UNPUBLISHED

October 25, 2011

No. 299361

Iron Circuit Court

LC No. 10-004233-NI

Before: STEPHENS, P.J., and SAWYER and K. F. KELLY, JJ.

PER CURIAM.

Plaintiff Patricia Brown appeals as of right from the trial court's order granting defendant Northwoods Animal Shelter summary disposition in plaintiff's slip and fall personal injury case. We affirm.

I. BASIC FACTS

This case arises out of a slip and fall that occurred at defendant's animal shelter. Plaintiff was a volunteer worker at the shelter and, prior to her injury, she was required to sign a "Volunteer Hold Harmless Agreement" indicating that she would not be able to bring any legal action for any personal injuries suffered at the shelter. The hold harmless agreement provided as follows:

I, Patricia T. Brown, hereby agree to hold Northwoods Animal Shelter harmless and I agree that the Northwoods Animal Shelter shall not in any circumstance be responsible for any loss or damage to my property or any injury to myself which may occur, while I am volunteering at the Northwoods Animal Shelter, located at 1501 Mineral Avenue, Iron River, Michigan.

I am serving as a volunteer and I understand I may be working with animals which are unpredictable and dangerous. I am also well aware of the other possible risks in terms of personal injury and or property damage that I will be exposing myself to as a volunteer as a volunteer [sic] for the Northwoods Animal Shelter. I know and fully understand that I will not be able to claim any compensation against the Northwoods Animal Shelter for lost wages or any other losses or damages caused by anything that happens while I am volunteering for Northwoods Animal Shelter.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(7), arguing that the hold harmless agreement was a release of liability. Plaintiff countered that the release was invalid because of lack of consideration. The trial court granted defendant's motion and plaintiff now appeals as of right.

II. STANDARD OF REVIEW

Summary disposition may be granted under MCR 2.116(C)(7) when a claim "is barred because of release." Under MCR 2.116(C)(7), a court must accept plaintiff's well-pleaded allegations as true and construe them most favorably to the plaintiff. *Xu v Gay*, 257 Mich App 263, 266; 668 NW2d 166 (2003). The motion should be granted only if, after reviewing all affidavits, pleadings, depositions, admissions and documental evidence, the trial court determines that no factual development could provide a basis for recovery. *Xu*, 257 Mich App at 266-267. This Court reviews a trial court's decision on a motion for summary disposition de novo. *Id.*

III. ANALYSIS

A hold harmless agreement is a release of liability that is to be interpreted according to the rules of contract interpretation. See *Shay v Aldrich*, 487 Mich 648, 667; 790 NW2d 629 (2010); *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 13-14; 614 NW2d 169 (2000). "If the text in the release is unambiguous, the parties' intentions must be ascertained from the plain, ordinary meaning of the language of the release. A contract is ambiguous only if its language is reasonably susceptible to more than one interpretation." *Cole*, 241 Mich App at 13.

Plaintiff contends there was insufficient consideration to support the release agreement and, therefore, it should be void. A release of liability is valid if it is fairly and knowingly made. *Xu*, 257 Mich App at 272; *Paterek v 6600 Ltd*, 186 Mich App 445, 449; 465 NW2d 342 (1990). A release must be supported by sufficient consideration to be considered valid. *Babcock v Public Bank*, 366 Mich 124, 135; 114 NW2d 159 (1962); *Paterek*, 186 Mich App at 451. Consideration is adequate when there is (1) a legal detriment to the defendant, (2) that induced the plaintiff's promise to release the defendant's liability, and (3) the plaintiff's promise to release the defendant from liability induced the defendant to suffer the detriment. *Paterek*, 186 Mich App at 451.

In this case, consideration consisted of plaintiff being given the opportunity to work with the animals at the shelter; in turn, she agreed to hold defendant harmless for any personal injury she sustained while volunteering. Requiring volunteers to sign a hold harmless release does not violate public policy. "It is not contrary to public policy for a party to contract against liability for damages caused by its own ordinary negligence." *Skotak v Vic Tanny Int'l, Inc*, 203 Mich App 616, 617-618; 513 NW2d 428 (1994). Plaintiff voluntarily chose to volunteer at the animal shelter; she was not required to do so. The Volunteer Hold Harmless Agreement does not violate public policy.

Affirmed. As the prevailing party, defendant may tax costs pursuant to MCR 7.219.

/s/ Cynthia Diane Stephens

/s/ David H. Sawyer

/s/ Kirsten Frank Kelly